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said storage medium is provided, and a second portion on said main surface, adapted for providing thereon a state-designating member for designating a state in which writing of information to the storage medium is prohibited, wherein, [a write-permitting or] a write-inhibiting signal is produced by virtue of a presence of said state-designating member, and wherein the produced write-inhibiting signal identifies a state of the storage medium.

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28. (Twice Amended) The information storage apparatus comprising:

a storage medium in which information can be written;

a supporting member incorporating said storage medium, the support member having a first portion on a main surface thereof where an external connection terminal electrically connected to said storage medium is provided, and a second portion on said main surface; and

a state-designating member on said second portion, for designating a state in which writing of information to the storage medium is prohibited, wherein [a write-permitting or] a write-inhibiting signal is produced by virtue of a presence of said state-designating member, and wherein the produced write-inhibiting signal identifies a state of the storage medium.

REMARKS

Claims 1-36 remain pending in this reissue application. Support for the claim amendments made by this Amendment is found at least at col. 5, lines 26-37, col. 6, line 57 through col. 7, line 33, and Fig. 4 of the '023 patent.

In the pending Office Action, the Examiner rejected claims 1-36 under 35 U.S.C. § 251 as supposedly recapturing surrendered subject matter. Applicant traverses this rejection.

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The Examiner takes the position that a "broadening aspect is present in the reissue which was not present in the application for patent. The claim language 'wherein a write-permitting or a write-inhibiting state is ~~indicated~~ by said state designating conductive member' presented in the reissue application by amending the original language 'wherein a write-permitting or a write-inhibiting signal is ~~produced~~ by said state designating conductive member' is the broadening aspect."

The Examiner further asserts that the

record of the application for the patent shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application. Applicant agreed to add the limitation 'wherein a write-prohibiting or a write-inhibiting signal is produced by said state designating conductive member' to prosecute allowance in the parent application. Therefore, there is an improper recapture.

Applicant disagrees that the claims have been improperly broadened by this reissue application. Instead, Applicant amended the claims in this reissue to correct any potential misinterpretation of the claimed subject matter. Applicant's specification discloses that the state designating member, shown in the drawings as element 16, can be, for example, a conductive or non-conductive seal or a conductive or non-conductive coating. See, for example, col. 8, lines 8-11 of the '023 patent. By virtue of element 16, the write-permitting or write-prohibiting state of the memory, identified as element 11, can be visually and/or electrically identified. See, for example, col. 6, line 57 through col. 7, line 33 of the '023 patent. Applicant amended the independent claims of this reissue application to insure that the claims would be correctly interpreted and given their appropriate scope in light of the specification from which the claims depend for support. There was no impermissible recapture.

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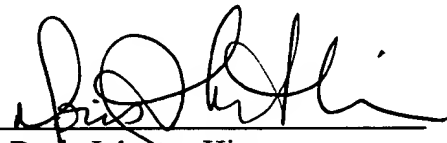
Applicants have amended the independent claims to clarify the meaning of this phrase. In so amending the claims, Applicant is merely making explicit what was already implicitly claimed in those claims. As a result, there can be no impermissible broadening or recapture. Applicant requests that the rejection under § 251 be withdrawn.

Applicant has also submitted herewith a Supplemental Reissue Declaration for the consideration of the Examiner. Applicant requests allowance of claims 1-36 and timely issuance of a reissue patent certificate.

If there is any fee due in connection with the filing of this Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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